

## REMARKS

Claims 1-28 are pending. Claims 1-6 are under examination. Claims 7-28 have been canceled. Claim 2 has been amended. New claims 28-38 have been added. Support for the amendments and new claims can be found throughout the specification and the claims as filed. In particular, support new claims 28-38 can be found in original claim 2. Accordingly, these amendments and new claims do not raise an issue of new matter and entry thereof is respectfully requested.

Applicant appreciates the indication by the Examiner that claim 5 would be allowable if rewritten in independent form. Applicant believes that the response submitted herewith addresses the rejections and should place claims 1-6 into condition for allowance.

Double Patenting

The rejection of claim 1 for obviousness-type double patenting as allegedly unpatentable over claim 31 of U.S. Patent No. 6,911,339 in view of DeVoe et al., U.S. Publication 2003/0127329, is respectfully traversed. Without addressing or conceding to the merits of the rejection, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,911,339 (Exhibit A). Also submitted herewith is the requisite fee under 37 C.F.R. § 1.20(d). Applicants respectfully submit that the terminal disclaimer is sufficient to render the double patenting rejection moot. As stated by the Court of Appeals for the Federal Circuit, the "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection," *Quad Environment Technologies Corp. v. Union Sanitary District*, 20 USPQ2d 1392 (Fed. Cir. 1991). Thus, Applicant respectfully requests that the double patenting rejection be withdrawn.

The rejection of claim 2 for obviousness-type double patenting as allegedly unpatentable over claim 31 of U.S. Patent No. 6,911,339 in view of DeVoe et al., U.S. Publication 2003/0127329, is respectfully traversed. Without addressing or conceding to the merits of the rejection, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,911,339 (Exhibit A). Applicants respectfully submit that the

terminal disclaimer is sufficient to render the double patenting rejection moot. Accordingly, Applicant respectfully requests that the double patenting rejection be withdrawn.

The rejection of claim 3 for obviousness-type double patenting as allegedly unpatentable over claim 36 of U.S. Patent No. 6,911,339 in view of DeVoe et al., U.S. Publication 2003/0127329, is respectfully traversed. Without addressing or conceding to the merits of the rejection, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,911,339 (Exhibit A). Applicants respectfully submit that the terminal disclaimer is sufficient to render the double patenting rejection moot. Accordingly, Applicant respectfully requests that the double patenting rejection be withdrawn.

The rejection of claim 4 for obviousness-type double patenting as allegedly unpatentable over claim 31 of U.S. Patent No. 6,911,339 in view of DeVoe et al., U.S. Publication 2003/0127329, is respectfully traversed. Without addressing or conceding to the merits of the rejection, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,911,339 (Exhibit A). Applicants respectfully submit that the terminal disclaimer is sufficient to render the double patenting rejection moot. Accordingly, Applicant respectfully requests that the double patenting rejection be withdrawn.

The rejection of claim 6 for obviousness-type double patenting as allegedly unpatentable over claim 34 of U.S. Patent No. 6,911,339 in view of DeVoe et al., U.S. Publication 2003/0127329, is respectfully traversed. Without addressing or conceding to the merits of the rejection, in order to expedite prosecution, Applicants submit herewith a duly-executed terminal disclaimer over Patent No. 6,911,339 (Exhibit A). Applicants respectfully submit that the terminal disclaimer is sufficient to render the double patenting rejection moot. Accordingly, Applicant respectfully requests that the double patenting rejection be withdrawn.

Rejection Under 35 U.S.C. § 112 and § 101

The rejection of claim 2 as allegedly being unclear and for not being the proper format for a process claim is respectfully traversed. Claim 2 is directed to an electrokinetic device, and the claim has been amended so that each member of the Markush group is recited as a device

rather than as a use. Applicant respectfully submits that claim 2 is in proper format and respectfully requests that this rejection be withdrawn.

In light of the amendments and remarks herein, Applicant submits that the claims are now in condition for allowance and respectfully requests a notice to this effect. The Examiner is invited to call the undersigned agent if there are any questions.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 502624 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**EXHIBIT A**